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REMARKS

Claim 1-29 were pending of which claims 1, 9, 14, 15, 19, 21 and 23 are independent. Claims 1, 9, 11, 14, 15, 19, 21, and 23-29 are currently amended. Claim 18 is cancelled. Reconsideration of the action mailed October 26, 2006, is requested in light of the foregoing amendments and the following remarks.

The Examiner rejected claims 1-13, 15-25, and 27-29 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner rejected claims 11 and 18 under 35 U.S.C. § 112, fourth paragraph for failing to further limit the subject matter of a previous claim. The Examiner rejected claims 1-3, 6, 8-12, 14, 16, and 19-29 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,116,055 to Tracy (hereinafter "Tracy"). The Examiner rejected claims 4, 13, 15, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Tracy in view of U.S. Patent Application Publication No. 2003/0060279 to Torango (hereinafter "Torango"). Applicant traverses the rejections.

Interview Summary

Applicant wishes to thank the Examiner for the courtesy of an Interview conducted January 20, 2006. In the interview, in which Applicant's representative Brian J. Gustafson and Examiner Brockett participated, claim 1 was discussed with respect to the cited reference of Tracy. Applicant's representative described the invention and the differences from Tracy. Specifically, Applicant's representative described how Tracy does not disclose changing the percentage of the wager amount to be applied to the progressive jackpot in response to a received wager. No agreement was reached.

Additionally, in the interview the Examiner raised an objection to the reliance on functional language in system claim 1. The Examiner stated that claim 1 included "intended use" language which would not be given patentable weight. In response to the Examiner's objection, the applicant notes that according to MPEP § 2173.05(g), functional language does not render a claim improper. Additionally, under MPEP § 2115, "features of an apparatus may be recited either structurally or functionally" as long as there is a structural distinction from the prior art.

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Claim 1 recites a progressive management device that performs a particular function. Thus, the progressive management device provides a structure (e.g., hardware, software, or both) operable to provide a particular function. The structure of the progressive management device has a structural limitation of being operable to perform the recited function. This is different from intended use language which does not import a structural limitation into the claim. *See Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (Intended use "for mixing flowing developer material" but with identical structure e.g., same device can mix other materials). Tracy's device is not operable to perform the recited function of claim 1 and is therefore structurally different.

Section 112 Rejections

The Examiner rejected claims 1-13, 15-25, and 27-29 as being indefinite. Specifically, the Examiner states that in claims 1, 9, 15, 19, 21, and 23, it is unclear what the percentage of the wager amount is being changed from. The claims, as amended, provide gaming systems which include a percentage of a wager amount to be applied to the progressive jackpot as a parameter. Thus, there is an existing percentage which is changed. Applicant submits that the § 112 rejection of claim 1-13, 15-25, and 27-29 has been overcome.

The Examiner rejected claims 25 and 28 as being indefinite for including the terms "calculating/calculate" which lacks antecedent basis. Applicant has amended claims 25 and 28 to recite "changing/change" respectively. Applicant submits that claims 25 and 28 are in compliance with § 112.

The Examiner rejected claims 11 and 18 as failing to further limit the subject matter of a previous claim. Applicant has cancelled claim 18, rendering the § 112 rejection moot. Applicant has amended claim 11 to recite a third gaming system, which provides further limitation to the subject matter of independent claim 9. Therefore, claims 11 is in compliance with § 112.

Section 102 Rejections

Claim 1 stands rejected as anticipated by Tracy. Claim 1 is directed towards a system that includes a device operable to change, in response to a received wager amount, the

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percentage of the wager amount to be applied to the progressive jackpot. This provides a dynamic and flexible system allowing real-time management and adjustment of a progressive jackpot and the gaming systems associated with the progressive jackpot. Additional gaming systems can also be added to the progressive jackpot while a the progressive game is in play.

The Examiner states that Tracy discloses changing a percentage of a wager amount applied to a progressive jackpot in response to a received wager from the first gaming system at col. 2, lines 32-36; col. 3, lines 57-65; and col. 4, lines 20-48. The Applicant respectfully disagrees.

Tracy discloses a system for joining gaming machines having different gaming parameters in a same progressive jackpot. *See* col. 2, lines 10-19. The system is designed so that the dollar amount contributed by each game machine to a progressive jackpot is equal. *See* page 2, lines 15-19. In order to provide equal dollar contribution, an electric translator is added to each machine to adjust the coin/pulse (coins per pulse) rate for each gaming machine. *See* page 2, lines 27-41. The coins per pulse rate defines the number of input wagers for a particular gaming machine required to generate a single pulse. *See* FIG. 2; col. 4, lines 1-20. When a pulse is received, the progressive jackpot is increased by a predefined amount. *See* col. 4, lines 7-11. For example, a game with a nickel wager can have a 5 coins per pulse rate while a game with a quarter wager can have a single coin per pulse rate. For both the nickel and the quarter game, a single pulse increments the progressive by an identical amount, e.g., 5 cents.

The coins per pulse rate for each gaming machine is a constant set for each gaming machine according to the particular gaming parameters associated with the gaming machine and a desired overall contribution amount for each gaming machine in order to provide a fair progressive jackpot. *See* col. 2, lines 10-35. Once the coin/pulse rate is set, for a gaming machine in a given progressive, the coins per pulse rate is constant during play of the gaming machine, otherwise the gaming machine would no longer be set to contribute the same overall amount to the progressive jackpot as the other gaming machines (*i.e.*, a change in the coins per pulse rate would change that machine's overall contribution to the progressive jackpot).

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In Tracy's system, a constant coins per pulse rate also means that the percentage amount contributed to the jackpot is also unchanged. This is because Tracy defines the coins per pulse rate for the gaming machine based on the parameters of the gaming machine, including the percentage of wager amount applied to the progressive jackpot, in order to ensure that each gaming machine contributes the same overall amount to the progressive jackpot. See col. 2, lines 28-36; col. 4, lines 12-21. Thus, changing the percentage amount for a gaming machine would require a change in the coins per pulse rate. Therefore, the system disclosed by Tracy does not disclose or suggest changing the percentage wager amount applied to the progressive in response to a received wager from the first gaming system.

Additionally, Tracy fails to disclose any structure or process which would change, in response to a received wager amount, the percentage of the wager amount applied to the progressive. The system in Tracy, the electronic translators are required in order to add a gaming machine to a progressive jackpot by compensating for the gaming machine's gaming parameters. The electronic translators, once set, simply emit pulses at a defined rate. Tracy does not disclose or suggest any communication structure or protocol providing communication to the electronic translators from a progressive management device that would allow the coins per pulse rate to be changed in response to a received wager amount after the progressive game has been established.

Furthermore, no logic is disclosed as residing in the electronic translator as being capable to calculating the necessary parameters in order to change the coins per pulse rate in response to a received wager amount. Finally, in order to maintain a fair game as defined by Tracy, each gaming machine must provide the same overall amount to the progressive jackpot. If the coins per pulse rate is changed for one gaming machine, a similar change would be necessary for every connected gaming machine in order to maintain the equal contribution. Tracy does not disclose or suggest communication among the gaming systems that would provide for the modification of the coins per pulse rate in each gaming system in response to received wagers.

The Examiner states that the recited feature can be found at col. 2, lines 32-36, which reads, in pertinent part, as follows:

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Each translator adjusts the coin/pulse information from its respective gaming machine such that the % To JP of the machine provides a \$s to JP for the machine which approximates that of the other gaming machines.

The cited passage of Tracy states that the electronic translator for each gaming machine adjusts the machines given coins per pulse information such that the gaming machine can be part of the progressive. The coins per pulse rate is set such that a given percentage provided to the progressive jackpot results in the same amount of money being contributed by the gaming machine to the progressive jackpot as is contributed by each other gaming machine participating in the progressive jackpot.

A gaming machine designed for progressive play includes a gaming parameter defining a percentage amount contributed to a progressive award. However, in order to join different types of gaming machines in a single progressive, Tracy needs to compensate for varying gaming parameters included in different gaming machine types. The above passage from Tracy discloses setting the coins per pulse rate for the gaming machine given the percentage amount contributed to the progressive jackpot for the particular gaming machine. The correct aggregated contribution by the gaming machine to the progressive jackpot is controlled by adjusting the coins per pulse rate based on the percentage contribution of the gaming machine.

In other words, the only factor that can be adjusted to allow the game to join the progressive is the coins per pulse rate since the percentage contribution amount is constant. Further, once set, the coins per pulse provided by the electronic translator it cannot be changed because of the requirements set for providing a fair game. Therefore, the cited passage does not disclose or suggest changing the percentage wager amount applied to the progressive in response to a received wager from the first gaming system, as required by claim 1.

The Examiner also relies on col. 3, lines 57-65 to provide the recited feature of claim 1. Col. 3, lines 57-65 read, in pertinent part, as follows:

To achieve the above result of the \$s To JP of each gaming machine being approximately equal, the parameters of the gaming machines 2A-2D, e.g., the Hit Frequencies, the parameters of the controller 3 and/or the other parameters of the system, e.g., the % to JP, can be suitably selected and adjusted. In the present illustrative case, the latter parameter, i.e., the % to JP, is controlled for each gaming machine to realize the desired approximate equality of \$s to JP.

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Furthermore, this is achieved by using electronic translators 7A-7D between the respective gaming machines 2A-2D and the controller 3.

The cited passage of Tracy discloses adjusting the parameters of each gaming system in order to produce an equal contribution of each machine to the progressive jackpot. In particular, the cited passage states that the percentage amount contributed to jackpot for a given machine can be controlled in order to get the desired dollar amount contribution from the machine. However, Tracy does not disclose or suggest changing the percentage of a wager amount in response to a received wager amount. In Tracy, the aggregate percentage provided to the progressive jackpot is controlled by changing the coins per pulse such that a desired total amount is contributed to the progressive jackpot. See col. 3, line 57 to col. 4, line 48. Thus, the controlled percentage referred to in the cited passage is the effective percent contribution caused by the change to the coins per pulse rate (thus resulting in the desired total contribution amount). In other words, the gaming parameters of the gaming machine are not directly changed; however, their effect is controlled by using the electronic translator to set the particular coins per pulse rate for each gaming machine. However, Tracy does not act in response to individual wager amounts. No changes to the percentage of the wager amount contributed to the progressive jackpot are made in response to a received wager amount from a gaming machine. Once the coins per pulse rate for a given machine is set (*i.e.*, when adding the machine to the progressive), the coins per pulse also remains constant, and thus so does the effective percent contribution.

Finally, the Examiner also relies on col. 4, lines 20-48. The cited passage includes a number of equations showing the relationships between the different gaming parameters and the modified coins per pulse rate. The equations are used to determine the correct coins per pulse rate for a given gaming machine in order to contribute the same dollar amount to the progressive jackpot. As discussed above, the calculations of the coins per pulse rate for a gaming system do not disclose or suggest changing the percentage of the wager amount applied to a progressive jackpot in response to a received wager amount. See col. 4, lines 20-21.

The cited passage confirms this by stating that the translators adjust the coins per pulse as a function of the desired amount contributed to the progressive jackpot. See col. 4, lines 42-48; equation 5. Equation 5 allows the translator to identify the desired coins per pulse rate for any

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given gaming machine according to the gaming parameters of the gaming machine as well as the desired amount contributed to the progressive. See equation 5. The equation allows the coins per pulse to be determined for each machine so that each machine contributes the same amount to the progressive jackpot.

Again, however, Tracy does not disclose or suggest changing, in response to a received wager, a percentage of the wager amount contributed to the progressive. Tracy's system creates a static system such that once a coins per pulse rate is determined for a gaming machine to participate in the progressive, the gaming parameters are constant. There is no disclosure or suggestion in Tracy that gaming parameters are modified in response to a received wager amount. Applicant respectfully submits that claim 1, as well as claims 2-8, 17, and 24, which depend from claim 1, are in condition for allowance.

Claim 9 stands rejected as anticipated by Tracy. Claim 9 is directed to a method for including systems having different progressive payout parameters into the same progressive jackpot that includes changing, in response to a received wager amount, a percentage of the wager amount to be applied by each gaming system to the progressive jackpot. For the reasons set forth above with respect to claim 1, claim 9 as well as claims 10-13, 16, and 25, which depend from claim 9, are in condition for allowance.

Claim 14 stands rejected as anticipated by Tracy. Claim 14 is directed to a system for managing a progressive game having a progressive management device. The system includes a first gaming system having a first set of payout parameters and a second gaming system having a second set of payout parameters. The progressive management device is operable to select, for each gaming system, a percentage of a wager amount to be applied to the progressive jackpot in response to a received wager. As discussed above, Tracy does not disclose or suggest any modifications to gaming parameters including percentage of a wager amount to apply to the progressive jackpot in response to a received wager. Instead, Tracy discloses a set coins per pulse rate defined when adding the gaming system according to the gaming systems predefined gaming parameters, including a pre-existing percentage contribution amount, to achieve a desired overall contribution from the particular gaming machine to the progressive jackpot. Tracy's

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system is then hardwired to receive pulses at given rates. The recipient of the pulse does not differentiate between wager amount or the device from which the pulse was sent. No selection of a percentage of a wager amount to apply is made in response to a received wager. Applicant respectfully submits that claim 14, as well as claim 26, which depend from claim 14, are in condition for allowance.

Claim 19 stands rejected as anticipated by Tracy. Claim 19 is directed to a method for determining a progressive outcome that includes changing, in response to the received data, a percentage of the wager amount to be applied to a progressive based on progressive payout parameters analysis. For the reasons set forth above with respect to claim 1, claim 19 as well as claim 20 and 27, which depend from claim 19, are in condition for allowance.

Additionally, claim 19 recites the execution of a random number generator calculation and transmitting the result of the random number generator calculation to a gaming system. In Tracy, the random number calculations used to produce an outcome for each gaming system are localized. For example, each slot machine has logic for determining the outcome of a slot pull. Tracy does not disclose or suggest transmitting a random number generator calculation to a particular gaming machine as required by claim 19. For the foregoing additional reason, claim 19 is in condition for allowance.

Claim 21 stands rejected as anticipated by Tracy. Claim 21 is directed to a computer program product for including gaming systems having different progressive payout parameters into the same progressive jackpot that includes instructions to change a percentage of a wager amount to be applied by each gaming system to the progressive jackpot in response to a received wager amount. For the reasons set forth above with respect to claim 1, claim 21 as well as claim 22 and 28, which depend from claim 21, are in condition for allowance.

Claim 23 stands rejected as anticipated by Tracy. Claim 23 is directed to a computer program product for determining a progressive outcome that includes instructions to change, in response to the received data, a percentage of the wager to be applied to a progressive jackpot based on progressive payout parameters analysis. For the reasons set forth above with respect to

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claim 1, claim 23 as well as claim 29, which depends from claim 23, are in condition for allowance.

Section 103 Rejections

Claim 15 stands rejected as unpatentable over Tracy in view of Torango. Claim 15 is directed to a method for including gaming systems having different currency types to in a progressive jackpot that includes changing a percentage of a wager amount applied to the progressive jackpot for each gaming system. For each received wager amount, the source gaming system is identified and a percentage of that received wagers is selected to be applied to the progressive jackpot. The Examiner states that Tracy discloses changing a percentage of a wager amount applied to the progressive jackpot for each gaming system. Tracy does not disclose or suggest selecting a percentage of a received wager amount to apply to the progressive jackpot. For the reasons set forth above with respect to claim 1, claim 15 is in condition for allowance.

Additionally, claim 15 recites that for a received wager amount, the source gaming system of the received wager amount is identified. The Examiner states that Tracy discloses the recited identifying step. Applicant respectfully disagrees. In Tracy, wagers are not transmitted from the individual gaming systems, thus there would be no reason to identify the source of a given wager. Instead, a pulse signal is transmitted to the progressive based on the defined coins per pulse rate of that gaming machine. However, the effect of a received pulse on the progressive is identical regardless of the source gaming system. The pulses from each gaming system are identical and result in the same increment to the progressive. In other words, a pulse received from gaming system 1 is indistinguishable from a pulse received from gaming system 2, and the result of each pulse is the same. For this additional reason, claim 15 is in condition for allowance.

Applicant respectfully requests that all pending claims be allowed.

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Pursuant to 37 CFR §1.136, applicant hereby petitions that the period for response to the action dated October 26, 2005, be extended for one month to and including February 26, 2006. Please charge the \$60 extension of time fee to Deposit Account No. 06-1050.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 10 February, 2006



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